

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIN WARREN SIZEMORE,

Defendant.

Case No. 6:21-cr-00138-RAW-1

**NINTH MOTION IN LIMINE**

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Defendant Devin Sizemore, by and through his assigned counsel, and pursuant to Local Criminal Rule 12.1(E), moves this Court for an order precluding any and all reference to Devin Sizemore’s court date on July 14, 2016.

Although the government has not yet informed defense counsel that it intends to refer to the court date, Defendant files this motion early out of an abundance of caution to inform the Court that the admissibility of any reference to the court date may be an issue at trial.

This Court should grant this motion because mention to an unspecified court date has no relevance and no probative value. Reference to the court date may unduly appeal to the jury’s sympathies, curiosities, and suspicions and “lure the factfinder into declaring guilt on

a ground different from proof specific to the offense charged.” *Old Chief v. United States*, 519 U.S. 172, 180 (1997). Therefore, any potential probative value of the evidence would be substantially outweighed by its prejudicial effect under Rule 403 of the Federal Rules of Evidence.

March 31, 2023

Respectfully submitted,

/s/

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### **Certificate of Electronic Filing and Service**

This is to certify that on this 31<sup>st</sup> day of March, 2023, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to Lisa Man, AUSA, and Gerald Collins, AUSA. To counsel's knowledge, there are no non-ECF registrants who are counsel in this case.

/s/

Lisa A. Peebles  
Federal Public Defender